Amendments to the Drawings

The attached sheets of drawings, which include Figs. 1-4, replace the original sheets including Figs. 1-4. In Fig. 1-4, Applicants have replaced the hand written text.

Attachment: Replacement Sheets (4)

REMARKS

No additional fee is due for this Amendment because the number of independent claims is not more than three and the total number of claims is not more than originally filed.

Summary of Telephone Interview

Applicants thank Examiner Amee Shah for her comments and courtesies extended during a telephone interview with Applicants' attorney John P. Poliak on 09 January 2007. Primary Examiner Robert Pond participated in the interview as well. Objections to the drawings and specification, and rejections to the claims were discussed.

Regarding the drawings, agreement was reached that replacing the handwritten text with typographical text would remove this objection.

Regarding the specification, agreement was reached that capitalizing trademarks within the text would remove this objection.

The Examiner stated that amending Claim 28 to depend from Claim 25 would obviate the rejection under 35 U.S.C. § 112.

Applicants stated the terminology for structure and function of the Patent Application, Morgan et al., U.S. Patent Application Publication No. 2002/0087583, and Ross et al., U.S. Patent 6,993,572 are different. The distributor/dealer of the Patent Application (provides customers to the product supplier/manufacturer and receives a commission) is not the same as the Distributor of the Morgan patent (website host and wholesaler of multiple products). Examiner Pond suggested that further clarification of terminology may be helpful to resolve this issue. Applicants and the Examiner did not reach agreement on the teachings of the cited references, so there was no agreement regarding the claim rejections under 35 U.S.C. § 103(a).

Amendment to the Drawings

Applicants have enclosed replacement figures for FIGS. 1-4. Applicants have amended FIG. 1-4 to replace the handwritten text. No new matter has been added to the drawings by this Amendment.

Amendment to the Specification

Applicants have capitalized the store names identified in the Office Action. No new matter has been added to the Specification by this Amendment.

Amendment to the Claims

Applicants have amended the claims to recite a product manufacturer in place of a product supplier, and a dealer rather than a distributor, to help distinguish roles over the cited references, as requested by Examiner Pond during the telephone interview. Support for this Amendment can be found at page 3, lines 21-22, and at page 4, lines 1-3, of Applicants Specification. Claim 28 has been amended to depend from Claim 25. Applicants have added new independent Claim 36. Support for new Claim 36 can found be in original Claims 4, 7, and 8 and at page 11, lines 11-15. No new matter has been added by this Amendment.

Specification

Applicants believe the above Amendment complies with the Office Action's requirements with respect to trademarks.

Claim Rejections - 35 U.S.C. § 112

Applicants have amended Claims 28 to depend from Claim 25 and render this rejection moot. This rejection should be withdrawn.

Claim Rejections - 35 U.S.C. §103

The rejection of Claims 1-9 and 24-35 under 35 U.S.C. §103(a) as being obvious over Morgan in view of Ross, is respectfully traversed.

MPEP § 2143 sets out three requirements for a *prima facie* case of obvious: 1) a suggestion to combine, 2) an expectation of success, and 3) disclosure of all the limitations.

The Abstract of Morgan discloses an Internet-based system for interaction between three parties: a store (local drugstore/pharmacy), a distributor (wholesaler of many products from different manufacturers) and a consumer (customer). The Examiner admits on page 8 of the Office Action that "Morgan does not explicitly disclose managing order fulfillment between the consumer and the product supplier . . ." In fact, paragraph 0003 of Morgan clearly identifies that its intended purpose teaches away from order fulfillment directly between the consumer and the product manufacturer:

> However, some consumers are uncomfortable buying some types of products on line. For example, purchasers of pharmaceuticals generally are more comfortable buying products from their local pharmacist with whom they can communicate and have established a trusting relationship. These consumers are generally leery of buying such products from a "faceless" website, which generally lacks any human interaction and whose actual physical existence probably remains a mystery to the consumer. (emphasis added).

In Morgan, the consumer's prescription is picked up at or delivered from the local store and not shipped from the distributor (which is alleged as analogous to Applicants' product manufacturer). Since Morgan explicitly desires a local relationship between a consumer and a trusted pharmacy/drug store, there would be no reason for one skilled in the art to modify Morgan for direct shipment to customers from a manufacturer.

Regarding new Claim 36 (and also Claims 7 and 8) Morgan, in paragraph 0028, states that the pharmacist (store) selects what payment methods it will accept. If the store is taking payment, such as at time of delivery or pick up

of the order, there is no commission for the distributor to pay the store since the store has all of the money from the sale.

The Office Action misstates the teachings of Ross. Ross does not teach "a product supplier providing links to its ordering facility through distributor websites that look exactly like the product supplier" as alleged at page 8.

Ross, in columns 23-24, discloses an e-commerce outsourcing system requiring four parties: a merchant, a host, an outsource provider, and a customer. The outsource provider (who is a separate and distinct party and not a supplier or manufacturer of any product) captures the "look and feel" of a host website and provides order taking and clearing functions for multiple hosts. The host (also not a "product supplier" or manufacturer) operates a host website that is visited by a customer. The customer is seamlessly taken to the outsource provider's "retail" website (not to the product supplier or manufacturer) to place an order which is filled by the merchant who ships to the customer. The Examiner on page 9 of the Office Action asserts that

> At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have modified the system of Morgan to include the teachings of Ross to allow for the website software applications and the business software applications to be interconnected so the product supplier may accept and fulfill sales orders, i.e. manage order fulfillment transactions, from consumers placed through the sub websites directly to consumers.

Ross, in column 2, line 66, to column 3, line 7, clearly teaches away from the product supplier/manufacturer accepting and fulfilling orders by a web site under its control, since the outsource provider (accepts orders) and the merchant (fulfills orders) are distinct separate entities:

> Additionally, the present invention can actually obviate the need for some merchants to invest in their own unique Internet presence. By using the present invention as their primary online sales channel, these Merchants can focus on product development, production, and order fulfillment and leave the exploration of the Internet to experts. The resulting ongoing cost savings and operational efficiencies

> magnify the potential benefits of the Internet while reducing the initial costs.

By explicitly stating that the merchant does not invest in their own Internet presence, Ross at least implicitly requires an outsource provider (the entire object of Ross is to leverage the benefits of the outsource provider doing all the customer orders for multiple hosts).

Ross teaches away from the merchant hosting its own web site and taking order information through a web site it controls. Morgan teaches away from directly shipping from the alleged "product supplier" to the customer of a store. Yet, the Office Action still claims it would have been obvious to one of ordinary skill in the art to combine these prior art references to provide Applicants' claimed invention. The motivation for combining these references stated on page 9 of the Office Action is directly contrary to the teachings of Morgan. Applicants respect disagree with the Office Action; one of ordinary skill in the art would not have gone against the teachings of the prior art references to make the alleged combination. Neither reference, alone or in combination, teaches a product manufacturer providing a web domain for use by dealers to sell products as in Applicants' claimed invention.

Furthermore, the Examiner states on page 2 of the Office Action regarding Ross that, "the roles being reversed, i.e. the product supplier having the domain server and the distributor, the subdomain." However, doing so would render Ross unfit for its intended purpose. As described above Ross requires four parties for a sales transaction. The host operates the host website but a customer is taken to the outsource provider's "retail" site to place an order which is shipped from the merchant. Having either the host or merchant of Ross with control of the domain server where the sales order is placed totally ignores the requirement and espoused benefits of the outsource provider of Ross.

Morgan and Ross would not have been combined on account of the above cited teachings (Morgan: requiring delivery by a local/trusted store and/or Ross: requiring a fourth party outsource provider). The requirements for obviousness are not met where the prior art, taken as a whole teaches away from one or more claim limitations. See MPEP §2141.02, §2143.01 and cases cited therein.

Favorable reconsideration and withdrawal of this rejection are respectfully requested in view of the above Amendment and comments.

New Claim 36

Morgan and Ross, neither alone nor in combination, also do not teach nor suggest Applicants' product manufacturer paying a commission to the distributor, as in independent Claim 36. Applicants' invention is structurally and functionally different than any disclosed or suggested by the combination of Morgan and/or Ross. As discussed above, the store in Morgan accepts payment. In Ross, the outsource provider (fourth party) provides payment to the host (dealer), at column 25, lines 1-2. This combination does not provide all claim limitations, and therefore the Examiner cannot put forth a proper *prima facie* case of obviousness for Claim 36.

Conclusion

Applicants intend to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicants have not resolved in this response, Applicants' undersigned attorney again requests a telephone interview with the Examiner.

Applicants sincerely believe that this Patent Application is now in condition for allowance and, thus, respectfully request issuance of a Notice Of Allowance.

Respectfully submitted,

Mark D. Swanson
Registration No. 48,498

Pauley Petersen & Erickson
2800 West Higgins Road, Suite 365
Hoffman Estates, Illinois 60169
(847) 490-1400 FAX (847) 490-1403